

These minutes are subject to formal approval by the Wyoming Zoning Board of Appeals at their regular meeting on January 21, 2013.

MINUTES OF THE WYOMING BOARD OF ZONING APPEALS
HELD AT WYOMING CITY HALL

January 7, 2013

The meeting was called to order at 1:30 P.M. by Chairman VanderSluis.

Members present:	Beduhn	Burrill	Dykhouse	Lomonaco
	Palmer	Postema	VanderSluis	

Other official present: James W. DeLange, Chief Building Official

A motion was made by Beduhn, and seconded by Lomonaco to excuse Van Houten.

Motion carried: 7 Yeas 0 Nays

A motion was made by Dykhouse, and seconded by Lomonaco to approve the minutes of the Board of Zoning Appeals meeting.

Motion carried: 7 Yeas 0 Nays

PUBLIC HEARING:

Appeal #V120253 P.P. #41-17-35-201-068

Morgan Brothers Construction

1198 52nd St. S.W.

Zoned R-2

The application requesting a variance from City Zoning Code section 90-682 Non-conforming use of land definition "lot width" in 90-14 (7) and required minimum 35 foot rear yard setback; to allow proposed construction of a bi-level single family house with an existing non-conforming lot width of approximately 41 feet (65' required) as measured at the minimum required setback line, and a variance to reduce the rear yard setback to 26'3" ±. was read by Secretary Lomonaco.

Chairman VanderSluis opened the public hearing.

Charles Morgan, Morgan Brothers Construction, noted the lot had the required 65' lot width frontage at the street. He was unaware he needed 65' lot width at the required setback line. He had been planning on putting a house on the narrow section of the property, but decided it would be better to place the house further back on the property. However there is a power line running through the property at the section, and in order not to build under the power line, he needs a rear yard setback variance.

Gary VandenBerg, 1183 Mulligan owns the property adjacent to the south. He asked the Board to clarify that the driveway for the proposed house would come off 52nd St. If the

driveway came off 52nd St., and subsequently the site plans showing that would be part of the variance, he then supported the variance request.

DeLange did clarify the site plan submitted Is part of the variance application and therefore also part of the variance if granted. He further clarified the site plan showed the proposed driveway to come off 52nd St.

Randy Bolser, 1210 52nd St., was concerned the neighbors had no “say” in the variance process. He alleged that Mr. DeLange had told him the variance stood an 80% chance of being granted, and that the Board usually agreed with Staff’s opinion.

Mr. DeLange remembered speaking with Mr. Bolser and what Mr. DeLange had said was in general the Board agreed with staff’s findings on 80% of all cases, however Mr. DeLange had also indicated that did not guarantee any variance would or would not be granted. He had encouraged the neighbor to attend the meeting for his input.

Chairman VanderSluis thought Mr. DeLange was talking statistically, and while the Chairman could not confirm that statistics, he assured Mr. Bolser the Board hears all parties; including the applicant, the neighbors and City staff before any decision was made regarding a variance request. The Board then must made decisions based on State mandated Finding of Facts.

Mr. Bolser went on to remark the lot had the requirements of an R-2 lot but was in the vicinity of R-1 properties. He did not believe that an irregular house placed on an irregular lot would improve his property values. He said there were two major concerns with putting the house on this lot that had to do with the power lines and easement issues.

DeLange reviewed with the Board the section of the ordinance that required the minimum lot width at the required front yard setback.

Mr. Bolser questioned why the lot was configured the way it was. He would not have any objection if the new house would increase value, but he thought the proposal was the same as “cramming it” on the lot just to fill the lot. He hoped the Board would deny the variance request.

There being no further remarks, Chairman VanderSluis closed the public hearing.

DeLange noted the subdivision behind the property was zoned R-2. The R-1 properties start two properties to the west. There is adequate area for the driveway. He proposed the following Finding of Facts.

1. That there are exceptional or extraordinary circumstances or conditions applicable to the property or to the intended use that do not apply generally to other property or class of use in the same vicinity and district because this parcel is uniquely configured resulting in a narrow long 41' ± width “throat” leading back to a wider section of the parcel large enough to place a single family house, albeit with a modest rear yard setback reduction to accommodate the proposed structure.

2. That such variance is necessary for the preservation and enjoyment of substantial property rights because the proposed new house's size and layout is not conducive to modification. It is designed to maximize the available lot area and provide a standard bi-level house with attached garage.
3. That the granting of such variance will not diminish the marketable value of adjacent land and improvements, or unduly increase congestion in the public streets because this new house construction improves market values in the area. The adjacent public street has ample capacity for additional traffic.
4. That the condition or situation of a specific piece of property, or the intended use of said property, for which the variance is sought is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such condition or situation because the parcel is very unusual in its shape, which restricts using normal lot widths and setbacks.

A motion was made by Lomonaco and seconded by Palmer that the request for a variance in application no. V120253 be granted, accepting staff's Finding of Facts.

Chairman VanderSluis asked how the lot came to be configured.

DeLange explained when the original lot split application was received by the City several years ago, staff denied the split. However at that time the lot actually met the definition of a "zoning lot" as stated in the Zoning Code, and the City Attorney authorized the lot split.

Postema asked for clarification that the lot split had already taken place.

DeLange confirmed it had.

Chairman VanderSluis asked when the split had been made.

DeLange did not have the date of the split but it was several years ago.

Postema wondered if the house could be configured with the garage more to the side.

Mr. Morgan explained originally he had planned for the lot to have egress off Mulligan Ct. by way of an easement. The adjacent neighbors had not appreciated that idea, and he has done all he can do to accommodate those neighbors immediately affected. Those neighbors are satisfied with the proposed site plan.

There were further questions, about the original platting of the houses on Mulligan Ct. and the proposed site plan. The history of the platting and subsequent lot split was explained. The public easement for utilities and egress for the lot was also explained. This site plan and variance would eliminate the need to use the easement for egress.

Lomonaco remarked that the rear lot width exceeded the 65' minimum requirement.

While Mr. Morgan had not owned this lot at the time of the development of Mulligan Ct. , the City had required that he install water and sewer to the property. It was the assumption that the lot would be developed at some future time. He had not liked the idea of installing water and sewer for a lot that was not his, so he purchased the lot.

Dykhouse felt since the size of the lot had been reduced and a portion had been sold to the neighbors on Mulligan Ct., the situation had been self induced by the owner.

However Chairman VanderSluis pointed out the lot was a legal lot, and a house would be built on it. It was only a question of how the house would be placed.

Postema asked if the applicant would still need a variance if he proposed a site plan using the easement off Mulligan Ct. for egress.

DeLange noted he would still have to seek variances. He went on to remind the Board that only the Finding of Facts for a Use variance precluded granting a variance for a situation that was self induced.

Postema asked if the submitted site plan should be made a stipulation.

DeLange answered the Board could make it a stipulation, however once submitted the site plan becomes a condition on the variance.

Lomonaco amended her motion to add the site plan as a stipulation of the variance. Palmer amended his support accordingly.

Motion carried: 5 Yeas 2 Nays (Beduhn, Dykhouse) Resolution #5349

PUBLIC HEARING:

Appeal #V120254 P.P. #41-17-02-282-001
Potter's House School
810 Van Raalte
Zoned R-4

The application requesting a Use variance from 90-96 regulating residential zoning districts to allow proposed use of a 70'x160' residential parcel with existing house to be converted into specifically a business office use solely for Potter's House School, located directly across Van Raalte Drive was read by Secretary Lomonaco.

Lomonaco asked to be excused from this application. She indirectly receives income from Potter's House School.

Chairman VanderSluis opened the public hearing.

Mr. Chad Barton, School Board Member, explained the K – 8 grades school would acquire the current church parsonage. The existing house would work well as development offices.

He noted the site is unique in the fact that part of the property is in the City of Grand Rapids, and part of the property is in the City of Wyoming. Unfortunately they cannot just combine the property with the school property because it is separated by a street.

There being no further remarks, Chairman VanderSluis closed the public hearing.

DeLange agreed this was a unique situation. Staff would support the variance request with the stipulation the owners not expand any parking on the property. He did not want the back yard to be turned into a parking lot that could affect neighboring residents. Staff had formulated the following Finding of Facts for the Board's consideration.

1. That the condition, location, or situation of the specific piece of property or of the intended use of the property is unique to the property in the zoning district in which it is located because this parcel is directly across a public street from the school, which will convert and use this large family house structure for business offices, exclusively for the school administration. Schools and their incidental uses are permitted in residential districts although on typically larger sites.
2. That the building, structure or land cannot be reasonably used in a manner consistent with the uses allowed in the zoning district in which it is located because this large residential structure is likely to only be used for a large family unit if continued dwelling use were to occur. School office use is consistent with a residential district, however this parcel is across the street rather than being continuous.
3. That the use variance will not alter the essential character of the neighborhood or the intent of the City Master Plan, nor be of detriment to adjacent properties because the office use is quiet. It likely has less traffic count on a daily basis than a single family residence. The parcel is larger than most in the area affording separation from the neighbors.
4. That the requested use is not of so general or recurring a nature as to make reasonably practical the formulation of a general regulation or adding it to the permitted uses in the zoning district in which it is located or to permitted uses in other more appropriate zoning districts because of the unique arrangement of the school, and this property in very near proximity.
5. That the variance will not impair the intent and purpose of this Ordinance because of the aforementioned finding of facts.
6. That the immediate unnecessary hardship causing the need for the variance request was not created by the applicant because there is a need for expanded school administrative office space and an available structure directly across the street, which is conducive to renovation for a measure of barrier free accessibility.

A motion was made by Burrill and seconded by Postema that the request for a variance in application no. V120254 be granted, accepting staff's Finding of Facts with the stipulation the parking not be expanded beyond current driveway and garage.

Dykhouse was concerned there was not enough parking for the office use.

Mr. Barton pointed out the current parking that is available. He was agreeable to the parking stipulation. He felt the site had adequate parking.

CL:cb